IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE EIGHTEENTH DAY OF JULY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE J.CHELAMESWAR

AND
THE HON'BLE MR JUSTICE M.VENKATESWARA REDDY

WRIT PETITION No.14556 of 2005

Between:

M.Srinivas, s/o China Venkata Rao,
R/o Amujuru Village, Pamarru Mandal,

E.G.District.

..... PETITIONER

AND

1 The Union of India rep., by its Secretary, Ministry of

Communications, Department of Posts, Dak Bhavan,
New Delhi.

2 The Chief Post Master General, General Post Office,

Abids, Hyderabad.

3 The Post Master General, Visakhapatnam, Visakhapatnam District.

4 The Superintendent of Post Offices, Rajahmundry Division,

Rajahmundry, E.G.District.

5 The Sub-Divisional Inspector (Posts), Ramachandrapuram,

E.G.District.

6 B.V.S.Gowtham, Balabhadrapuram Branch Office,

A/w Biccavole, Sub-Office, E.G.District.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court may be pleased to issue a writ, order or direction more particularly one in the nature of writ of certiorari calling for the records relating to the order made in O.A.No.1566 of 1999, dated 07.02.2000 wherein the O.A. filed by the petitioner challenging the appointment of the 6th respondent was disposed of upholding the appointment of the 6th respondent and quash the same as the same is highly illegal and arbitrary and further quash the appointment of the 6th respondent as EDBPM of Amujuru Branch Office, Pamarru Sub Post Office, E.G.District and consequently direct the respondents to complete the process of selection in pursuance of the notification dated 02.06.1977 issued for the post of EDBPM of Amujuru Branch Office, Pamarru Sub Post Office, E.G.District by considering the petitioner.

Counsel for the Petitioner : MR.G.V.SHIVAJI

Counsel for the Respondents 1 to 5 : MR.A.RAJASHEKAR REDDY

(ASST SOLICITOR GEN)

For the Respondent No.6 : None appeared

The Court made the following :

O R D E R

(Per Sri Justice J.Chelameswar)

The unsuccessful applicant in O.A.No.1566 of 1999 on the file of the Central Administrative Tribunal, Hyderabad, is the petitioner in this writ petition.

It appears that the 4th respondent herein issued a notification dated 02.06.1997 inviting applications from eligible candidates for the post of Extra Departmental Branch Post Master at Amjuru ED Branch Post Office under Pamarru Sub Post Office, Ramachandrapuram Head Post Office, East Godavari District. The petitioner herein is one of the applicants who made his application in response to the above-mentioned notification.

It appears that the 6th respondent herein sought an appointment with the Postal Department on compassionate grounds, in view of the fact that his father Mr.B.S.N.Achary, Ex-Branch Post Master, Balabhadrapuram, died in harness.

After issuing the notification dated 02.06.1997, the respondent authorities thought it fit to appoint the 6th respondent to the post covered by the said notification, and therefore, the petitioner approached the Central Administrative Tribunal, Hyderabad.

Mr.G.V.Shivaji, learned counsel for the petitioner, argued that the respondents 1 to 5 resorted to the appointment of 6th respondent to the same post, which was sought to be filled up by direct recruitment in the open market under the notification dated 02.06.1997.

Except a very emphatic assertion in this regard, learned counsel could not bring anything to the notice of the Court any notification, such as one referred earlier, it is not open for the respondents to fill up the post covered by the said notification by some other method of recruitment known and approved by law. It is not the case of the petitioner that the 6th respondent is not entitled either in fact or in law for a compassionate appointment. The process of appointing the dependants of the deceased members of a service is recognised by law and approved by the Courts subject to certain limitations. We, therefore, do not see any merit in the submission made by the learned counsel in this behalf.

Learned counsel for the petitioner also submitted that the 6th respondent was, in fact, offered appointment earlier itself as Extra Departmental Branch Post Master at some other place, which offer was rejected by the 6th respondent and he insisted that he be accommodated only at Amjuru Branch Office, and therefore, the official respondents appointed him in order to accommodate his request.

We do not find anything in law, which prohibits the official respondents from considering the request of the 6th respondent to the post at Amjuru. The fact that the 6th respondent is entitled for a compassionate appointment once established, whether he should be appointed at any particular place of his choice or not, is a matter essentially in the realm of the Rules concerned. But, no such Rule is placed before this Court. In the absence of any Rule, it is a matter of discretion of the official respondents. Therefore, the person, who challenges exercise of such discretion, shall necessarily establish that the said discretion was not exercised in accordance with the established principles of law. Whether the exercise of discretion in the matter of appointment of the 6th respondent is actuated by any consideration, which is not permissible by law, is not established since there is no material in this regard.

In the circumstances, we do not see any merits in the writ petition and the same is accordingly dismissed at the stage of admission. No costs.

J.CHELAMESWAR,J

M.VENKATESWARA REDDY,J

18th JULY, 2005

PGS

To

1 The Secretary, the Union of India, Ministry of

Communications, Department of Posts, Dak Bhavan,
New Delhi.

2 The Chief Post Master General, General Post Office,

Abids, Hyderabad.

3 The Post Master General, Visakhapatnam, Visakhapatnam District.

4 The Superintendent of Post Offices, Rajahmundry Division,

Rajahmundry, E.G.District.

5 The Sub-Divisional Inspector (Posts), Ramachandrapuram,

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THE HON'BLE MR JUSTICE J.CHELAMESWAR

AND

THE HON'BLE MR JUSTICE M.VENKATESWARA REDDY

WRIT PETITION No.14556 OF 2005

(Per Sri Justice J.Chelameswar)

18th JULY, 2005